

ORDER NO. 5827

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Robert G. Taub, Chairman;
Ashley E. Poling, Vice Chairwoman;
Mark Acton;
Ann C. Fisher; and
Michael Kubayanda

Competitive Product Prices

Docket No. MC2021-54

International Priority Airmail, International Surface Air Lift,
Commercial ePacket, Priority Mail Express International,
Priority Mail International & First-Class Package International
Service Contracts

International Priority Airmail, International Surface Air Lift,
Commercial ePacket, Priority Mail Express International,
Priority Mail International & First-Class Package International
Service Contract 2

Competitive Product Prices

Docket No. CP2021-56

International Priority Airmail, International Surface Air Lift,
Commercial ePacket, Priority Mail Express International,
Priority Mail International & First-Class Package International
Service Contract 2 (MC2021-54)
Negotiated Service Agreements

ORDER ADDING INTERNATIONAL PRIORITY AIRMAIL, INTERNATIONAL SURFACE
AIR LIFT, COMMERCIAL EPACKET, PRIORITY MAIL EXPRESS INTERNATIONAL,
PRIORITY MAIL INTERNATIONAL & FIRST-CLASS PACKAGE INTERNATIONAL
SERVICE CONTRACT 2 TO THE COMPETITIVE PRODUCT LIST

(Issued January 22, 2021)

I. INTRODUCTION

The Postal Service seeks to add a new product identified as International Priority Airmail, International Surface Air Lift, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service Contract 2 to the competitive product list.¹ For the reasons discussed below, the Commission approves the Request.

II. BACKGROUND

On December 28, 2020, in accordance with 39 U.S.C. § 3642, 39 C.F.R. §§ 3040.130 *et seq.*, and 39 C.F.R. § 3035.105, the Postal Service filed the Request, along with supporting documents. In the Request, the Postal Service asserts that International Priority Airmail, International Surface Air Lift, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service Contract 2 is a competitive product that establishes rates “not of general applicability” within the meaning of 39 U.S.C. § 3632(b)(3). Request at 1. Among the supporting documents, the Postal Service included a copy of the Governors’ Decision authorizing the product, a contract related to the proposed new product, requested changes to the competitive product list, a statement supporting the Request, a certification of compliance with 39 U.S.C. § 3633(a), and financial workpapers. In addition, the Postal Service submitted an application for non-public treatment of materials requesting that unredacted portions of the Governors’ Decision and the contract, customer-identifying information, and related financial information remain under seal. *Id.* Attachment F.

¹ USPS Request to Add International Priority Airmail, International Surface Air Lift, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service Contract 2 to Competitive Product List and Notice of Filing Materials Under Seal, December 28, 2020 (Request).

The contract is intended to take effect on January 24, 2021. Request at 2. It is set to expire on February 28, 2023. *Id.* Attachment B at 7.

On December 29, 2020, the Commission issued a notice establishing the two dockets, appointing a Public Representative, and providing interested persons with an opportunity to comment.²

On December 16, 2020, Chairman's Information Request (CHIR) No. 1 was issued in Docket No. CP2020-198.³ CHIR No. 1 asked the Postal Service questions relating to the financial workpapers filed in support of the modification in Docket No. CP2020-198, but the questions and the responses are also pertinent to the Commission's review of the instant contract. The Postal Service filed its response on December 23, 2020.⁴

III. COMMENTS

The Public Representative filed comments on January 4, 2021.⁵ No other interested person filed comments. The Public Representative concludes that the contract meets the requirements to be classified as a new competitive product, and that the contract should generate sufficient revenues to cover costs during its first year. PR Comments at 2. He notes that the contract has a mechanism for annual upward adjustments of prices. *Id.* at 3. He also notes that the Commission will have an opportunity to annually review the contract. *Id.*

² See Docket No. MC2021-54, *et al.*, Notice Initiating Docket(s) for Recent Postal Service Negotiated Service Agreement Filings, December 29, 2020.

³ Docket No. CP2020-198, Chairman's Information Request No. 1 and Notice of Filing Under Seal, December 16, 2020.

⁴ Docket No. CP2020-198, Response of the United States Postal Service to Chairman's Information Request No. 1, December 23, 2020 (Docket No. CP2020-198 Response to CHIR No. 1).

⁵ Public Representative Comments on Postal Service Request to Add IPA, ISAL, CeP, PMEI, PMI & FCPIS Contract 2 to the Competitive Product List, January 4, 2021 (PR Comments).

IV. COMMISSION ANALYSIS

The Commission has reviewed the Request, the contract, the supporting data filed under seal, the Docket No. CP2020-198 Response to CHIR No. 1, and the Public Representative's comments.

Product list requirements. The Commission's statutory responsibilities when evaluating the Request include assigning International Priority Airmail, International Surface Air Lift, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service Contract 2 to either the market dominant or competitive product list. See 39 U.S.C. § 3642(b)(1); 39 C.F.R.

§ 3040.134. Before adding a product to the competitive product list, the Commission must determine that the Postal Service does not exercise sufficient market power that it can effectively set the price of the product substantially above costs, raise prices significantly, decrease quality, or decrease output, without the risk of losing a significant level of business to other firms offering similar products. See 39 U.S.C. § 3642(b)(1). In addition, the Commission must consider the availability and nature of private sector enterprises engaged in delivering the product, the views of those who use the product, and the likely impact on small business concerns. See 39 U.S.C. § 3642(b)(3); 39 C.F.R. §§ 3040.132(f), (g), and (h).

The Postal Service asserts that it provides postal services of the kind provided under the contract in a highly competitive market, that other shippers who provide similar services constrain its bargaining position, and that it can therefore neither raise prices nor decrease service, quality, or output without risking the loss of business to competitors. Request, Attachment D at 2. The Postal Service states that the contract partner supports the Request, that expedited shipping is widely available from private firms, and that the Postal Service is unaware of any small business concerns that could offer comparable services to the contract partner. *Id.* at 3.

The Commission finds that the Postal Service does not exercise sufficient market power that it can effectively set the price of the proposed product substantially above costs, raise prices significantly, decrease quality, or decrease output, without the risk of losing a significant level of business to other firms offering similar products. The availability of other private sector providers supports this conclusion. The contract partner and the Public Representative support the addition of the International Priority Airmail, International Surface Air Lift, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service Contract 2 product to the competitive product list. Further, there is no evidence of an adverse impact on small businesses. For these reasons, having considered the relevant statutory and regulatory requirements, the comments filed, and the Postal Service's supporting justification, the Commission finds that International Priority Airmail, International Surface Air Lift, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service Contract 2 is appropriately classified as competitive and is added to the competitive product list.

Cost considerations. The Commission reviews competitive product prices to ensure that each product covers its attributable costs, does not cause market dominant products to subsidize competitive products, and contributes to the Postal Service's institutional costs. 39 U.S.C. § 3633(a); 39 C.F.R. §§ 3035.105 and 3035.107. As long as the revenue generated by the product exceeds its attributable costs, the product is unlikely to reduce the contribution of competitive products as a whole or to adversely affect the ability of competitive products as a whole to contribute an appropriate share of institutional costs. In other words, if a product covers its attributable costs, it is likely to comply with 39 U.S.C. § 3633(a).

Based on a review of the record, the Commission finds that the rates during the first year of the contract should cover the contract's attributable costs. 39 U.S.C. § 3633(a)(2). Combined with sufficiently high first-year cost coverage, the contract's

price adjustments will help ensure that the contract will cover attributable costs in subsequent contract years. For these reasons, the Commission also finds that the contract should not result in competitive products as a whole being subsidized by market dominant products, in accordance with 39 U.S.C. § 3633(a)(1). Similarly, the Commission finds the contract is unlikely to prevent competitive products as a whole from contributing an appropriate share of institutional costs, consistent with 39 U.S.C. § 3633(a)(3). *See also* 39 C.F.R. § 3035.107(c). Accordingly, a preliminary review of the contract indicates it is consistent with section 3633(a).

The Commission will review the contract's cost coverage and the contribution of competitive products as a whole to the Postal Service's institutional costs in the Commission's Annual Compliance Determination to ensure that they continue to comply with 39 U.S.C. § 3633(a).

The Commission notes that the Postal Service undertook a complete reorganization of the financial workpapers, filing the new version contemporaneously in more than two dozen dockets. Simultaneously reviewing a novel presentation of a modified cost model in multiple dockets greatly impeded Commission review, which could have impacted Postal Service operations had the Commission not been able to complete its review prior to the intended effective date.

Specifically, the change in the presentation of the workpapers impeded identification of the substantive methodological changes to the cost model. This problem was made more acute by the submission of cost data that was insufficiently granular for the Commission to be able to verify the accuracy of the costs for the new country price groups from the Commission-reviewed costs for the previous set of country groups. The Commission notes that the Postal Service did not alert the Commission to these substantive changes to the cost model.

Additional reporting requirements. Due to the analytical difficulties described above, the Commission finds it prudent to monitor these contracts for compliance on an on-going basis. To that end, the Postal Service shall file, on a quarterly basis, a single

report in these dockets containing the contract-specific volumes, costs, and revenues of each of the agreements at issue, including International Priority Airmail, International Surface Air Lift, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service Contract 2.

Based on a review of the record, the Commission finds that the International Priority Airmail, International Surface Air Lift, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service Contract 2 product is projected to cover its attributable costs. For this reason, the Commission finds that International Priority Airmail, International Surface Air Lift, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service Contract 2 should not result in competitive products as a whole being subsidized by market dominant products, in accordance with 39 U.S.C. § 3633(a)(1). Similarly, it finds International Priority Airmail, International Surface Air Lift, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service Contract 2 is unlikely to prevent competitive products as a whole from contributing an appropriate share of institutional costs, consistent with 39 U.S.C. § 3633(a)(3). Accordingly, a preliminary review of the International Priority Airmail, International Surface Air Lift, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service Contract 2 product indicates it is consistent with section 3633(a). The Commission will review the cost coverage of International Priority Airmail, International Surface Air Lift, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service Contract 2 in the required quarterly reports and in its Annual Compliance Determination to ensure that rates cover costs.

Other considerations. By its terms, the contract becomes effective on January 24, 2021. Request at 2. The contract is scheduled to expire on February 28, 2023,

unless terminated sooner pursuant to Article 14, Article 25, or Article 35. *Id.* Attachment B at 7.

If the instant contract is terminated prior to the scheduled expiration date, the Postal Service shall promptly file notice of such termination with the Commission in these dockets.

In conclusion, the Commission approves International Priority Airmail, International Surface Air Lift, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service Contract 2 as a new product. Revisions to the competitive product list and the Mail Classification Schedule appear below the signature of this Order and are effective immediately.

V. ORDERING PARAGRAPHS

It is ordered:

1. International Priority Airmail, International Surface Air Lift, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service Contract 2 (MC2021-54 and CP2021-56) is added to the competitive product list as a new product under Negotiated Service Agreements, International. Revisions to the competitive product list and the Mail Classification Schedule appear below the signature of this Order and are effective immediately.
2. The Postal Service shall file, on a quarterly basis, a single report in these dockets containing the contract-specific volumes, costs, and revenues of the Request. Each quarterly report shall be filed within 30 days of the completion of each quarter of the fiscal year, with the first report due April 30, 2021.

3. The Postal Service shall promptly file notice of the instant contract's termination with the Commission in these dockets if the instant contract terminates prior to the scheduled expiration date.
4. The Secretary shall arrange for publication in the *Federal Register* of an updated product list reflecting the change made in this Order.

By the Commission.

Erica A. Barker
Secretary

CHANGE IN PRODUCT LIST

The following material represents changes to the product list codified in Appendix B to 39 C.F.R. part 3040, subpart A—Competitive Product List. These changes reflect the Commission's order in Docket Nos. MC2021-54 and CP2021-56. The Commission uses two main conventions when making changes to the product list. New text is underlined. Deleted text is struck through.

Appendix B to Subpart A of Part 3040—Competitive Product List

Negotiated Service Agreements*

International*

International Priority Airmail, International Surface Air Lift, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service Contract 2

CHANGES TO THE MAIL CLASSIFICATION SCHEDULE

The following material represents a change to the Mail Classification Schedule. The Commission uses two main conventions when making changes to the Mail Classification Schedule. New text is underlined. Deleted text is struck through.

Part B—Competitive Products **2000 Competitive Product List**

Negotiated Service Agreements*

International*

International Priority Airmail, International Surface Air Lift, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service Contract 2

2500 Negotiated Service Agreements

2510 Outbound International

2510.22 International Priority Airmail, International Surface Air Lift, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service Contracts

- International Priority Airmail, International Surface Air Lift, Commercial ePacket, Priority Mail Express International, Priority Mail International & First-Class Package International Service Contract 2

Baseline Reference

Docket Nos. MC2021-54 and CP2021-56

PRC Order No. 5827, January 22, 2021

Included Agreements

CP2021-56, expires February 28, 2023
